

REMARKS

Claims 1-129 and 164-174 are pending in the above-identified application. The Examiner rejected claims 1-129 and 164-174.

I. REJECTION OF CLAIMS 1-29, 32-48, 51-83, 85-110, 112-128, 165 AND 168-174 UNDER 35 U.S.C. § 103(a)

Claims 1-29, 32-48, 51-83, 85-110, 112-128, 165 and 168-174 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,953,640 ("Meador") in view of U.S. Patent No. 5,537,459 ("Price"). Applicants respectfully traverse the rejection.

M.P.E.P. § 2145(X)(D)(2) clearly states that "[i]t is improper to combine references where the references teach away from their combination." Applicants respectfully submit that Meador and Price were improperly combined.

In teaching a single-chip transceiver IC, Meador states that "[t]here has been a desire to integrate as many functions as feasible on a single integrated circuit when implementing a radio transceiver. An entire transceiver system integrated on a common substrate would tend to reduce cost and increase reliability." Meador at col. 1, lines 27-31. On the other hand, Price teaches away from such all-in-one radio transceivers characterized by wide ranging functionality. Instead, for example, Price teaches an antenna separated from station units 12, 14 and master command unit 10. The antenna can be, for example, on another wing of a hospital. See, e.g., FIG. 1 of Price. Clearly, connecting the antenna (e.g., antennas 46, 52) to the station units 12, 14 and the master command unit 10 via substantial lengths of coaxial cable 54, 56 teaches away from the integration of Meador.

Furthermore, whereas Meador teaches a desire to integrate as many functions as possible onto the single integrated circuit, Price teaches as an objective of its invention "to simplify the electronic devices that are required within the system". Price at col. 9, lines 1-2. The remote response mobile unit, for example, used by nurse units as set forth in FIG. 2 of Price does not "incorporate a means for independently specifying a specific patient or other remote response unit that a transmission response is to be directed toward". Price at col. 9, lines 3-6. In other words, the mobile unit of Price cannot independently call, for example, a particular patient. The mobile unit can only respond to an incoming request. Price justifies this low level of functionality by stating that the "the benefits of the simplicity of the system shown outweigh the

advantages". Price at col. 9, lines 11-12. For example, a nurse unit cannot merely call another nurse unit, since, as described above, the mobile unit cannot identify a destination. Instead, "[b]eing unable to automatically identify destination, the individual associated with nurse unit 20 would have to identify the desired destination to the staff individual handling station unit 14. Thereafter, by way of keyboard 74 entry, station unit 14 would establish [a] communication path". Price at col. 12, lines 33-45. The manual assistance just to communicate between two nurse units teaches away from the radio transceivers of Meador, which can call other radio transceivers with particularity. In addition, combining the teachings of Price, including the mobile unit that cannot identify a destination, with the teachings of Meador would invariably change a core principle of operation of the modified radio transceiver of Meador. The changing of the principle of operation of Meador to accommodate the teachings of Price is generally prohibited, for example, under M.P.E.P. § 2143.01 and, at the least, is evidence of teaching away from the combination of Meador and Price. Thus, for at least the above reasons, the teachings of the references are not sufficient to render the claims *prima facie* obvious. See also, e.g., M.P.E.P. § 2145(X)(D).

For at least the above reasons, the combination of Meador and Price is improper and a rejection based on the combination cannot be maintained. It is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claims 1-29, 32-48, 51-83, 85-110, 112-128, 165 and 168-174.

In addition, since not even a *prima facie* case of obviousness has been presented, Applicants respectfully submit that making the office action final is premature. Accordingly, a notice of allowability or another office action is respectfully requested.

II. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(a) WITH RESPECT TO CLAIMS 30, 31, 49, 50, 84, 111, 129, 164, 166 AND 167

Although the Office Action states that claims 30, 31, 49, 50, 84, 111, 129, 164, 166 and 167 stand rejected under 35 U.S.C. § 103(a) as being obvious over Meador. It is clear from the arguments presented by the Examiner, that the Examiner relied upon the combination of Meador and Price. Accordingly, Applicants will assume that the Examiner intended to reject the above-listed claims under 35 U.S.C. § 103(a) as being obvious over Meador in view of Price. Nevertheless, Applicants respectfully traverse the rejection.

For at least the reasons previously set forth above, the combination of Meador and Price is improper. Thus, the rejection based on the combination of Meador and Price cannot be maintained. Accordingly, the teachings of the references are not sufficient to render the claims *prima facie* obvious.

In the Office Action, the Examiner also alleges, *without any supporting evidence*, that “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to implement a method of testing the signal quality and operation of system components in Meador’s design in order to troubleshoot any system problems that may have arisen.” In addition, the Examiner alleges, *without any supporting evidence*, that “the combination of Meador and Price teaches claim 1 instead of HomeRF, 802.11, Bluetooth or programming comprises selecting a data rate. However, using HomeRF, 802.11, Bluetooth or programming comprises selecting a data rate as claimed are known in the art.” Office Action at page 7. Applicants respectfully disagree that the claimed elements are obvious or well known in this particular context and respectfully challenge the Examiner to produce references in support of such allegations.

Applicants respectfully directs the attention of the Examiner to M.P.E.P. § 2144.03(A), which states that “while ‘official notice’ may be relied on, these circumstances should be rare when an application is under final rejection”. See M.P.E.P. § 2144.03(A) (emphasis added). Applicants respectfully request that the Examiner heed the admonishment of the M.P.E.P.

M.P.E.P. § 2144.04(E) also states that “[i]t is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.” Accordingly, Applicants respectfully request that the Examiner produce references in support of the Examiner’s contention or, if the Examiner is relying upon personal knowledge to support the finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanations to support the finding. See, e.g., M.P.E.P. § 2144.03 and 37 C.F.R. § 1.104(d)(2).

It is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claims 30, 31, 49, 50, 84, 111, 129, 164, 166 and 167.

In addition, since not even a *prima facie* case of obviousness has been presented, Applicants respectfully submit that making the office action final is premature. Accordingly, a notice of allowability or another office action is respectfully requested.

**III. REJECTION OF CLAIMS UNDER 35 U.S.C. § 102(e)
WITH RESPECT TO CLAIMS 167, 169, 171, 172 AND 174**

Claims 167, 169, 171, 172 and 174 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Meador. Applicants respectfully traverse the rejection.

It is improper to reject claim 167 under 35 U.S.C. § 102(e) as anticipated by Meador since claim 167 depends from claim 1. The Examiner has already admitted in attempting to reject claim 1 under 35 U.S.C. § 103(a) that Meador does not teach or suggest each and every element. Accordingly, Meador does not describe each and every element as set forth in claim 1. Since Meador does not anticipate claim 1, Meador does not anticipate claim 167 which depends from claim 1.

Applicants respectfully submit that Meador does not describe each and every element as set forth in claim 169. For example, claim 169 recites, in part, "programming one of the receiver and the transmitter to compensate for noise or interference". The Examiner alleges that each and every one of these elements are described in Meador at col. 2, lines 25-67. Applicants respectfully disagree. In fact, the word "noise" is only mentioned once and the word "interference" is not mentioned at all in the text cited by the Examiner. The only mention of "noise" is with respect to low noise amplification. However, there is no mention of programming, for example, the receiver to compensate for noise. Furthermore, if there is no mention of interference, then there is no mention of compensating for interference. For at least the above reasons, Meador does not anticipate claim 169 and its dependent claim (i.e., claim 171).

Applicants respectfully submit that Meador does not describe each and every element as set forth in claim 172. For example, claim 172 recites, in part, "programming one of the receiver and the transmitter to control at least one parameter of the transceiver to compensate for process variation or temperature variation". The Examiner alleges that each and every one of these elements are described in Meador at col. 4, line 44 to col. 5, line 4. Applicants respectfully disagree. The text recited by the Examiner does not describe programming and certainly does not describe programming to control at least one parameter of the transceiver. For at least the above reasons, Meador does not anticipate claim 172 and its dependent claim (i.e., claim 174).

It is therefore respectfully requested that the rejection under 35 U.S.C. § 102(e) be withdrawn with respect to claims 167, 169, 171, 172 and 174.

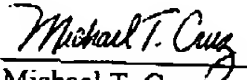
IV. CONCLUSION

In view of at least the foregoing, it is respectfully submitted that the pending claims 1-129 and 164-174 are in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

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Respectfully submitted,



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